

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
NORTHERN DIVISION

UNITED STATES SECURITIES
AND EXCHANGE COMMISSION :
Plaintiff, :
v. :
WILLIAM F. MAHON, ET. AL. :
Defendants. :
CIVIL ACTION :
FILE NO. S 00 CV 2918 :
Judge William D. Quarles :
:

PLAINTIFF SEC'S MOTION FOR SCHEDULING CONFERENCE

Plaintiff, United States Securities and Exchange Commission (SEC), through its counsel and pursuant to Fed. R. Civ. P. 7(b), respectfully moves the Court to set a scheduling conference to establish discovery deadlines, dispositive motions deadlines, and a disgorgement hearing date. In support of its motion, the SEC states the following:

1. On January 17, 2003, the Court entered an Order of Permanent Injunction against Defendant Dean J. Jupiter (Order) by consent (docket entry #43).¹ Paragraph II of the Order states that “[t]his Court will set the specific amount of disgorgement, and will determine whether to impose civil penalties on Defendant [Jupiter], and in what amount, in a separate hearing upon due notice and motion by the Commission.” Moreover, Paragraph III of the order states:

the Commission is expressly authorized to engage in discovery regarding any unresolved issue in the case with respect to Defendant, which shall include, but not be limited to, discovery for purposes of determining the amount of ill-gotten gain and civil penalties, if any. The amount of time the Commission will have to conduct any such discovery will be determined by the Court upon due notice and motion for a disgorgement hearing by the Commission.

¹ This Court previously has entered Orders providing for an injunction, disgorgement, and a civil penalty against Defendant William F. Mahon.

2. According to the Order, the SEC is entitled to conduct discovery on all unresolved issues. Three unresolved issues in this case include establishing the amounts of disgorgement, prejudgment interest, and a civil penalty against Jupiter. Additionally, there are unresolved issues regarding Jupiter's apparent dissipation of his assets during the course of this litigation.

3. Jupiter has indicated to the SEC that he intends to invoke his Fifth Amendment privilege against self-incrimination at his financial deposition. Accordingly, the SEC anticipates that it will need to subpoena documents from and take the deposition of Jupiter's accountant and possibly others.

4. Earlier this month, the SEC informed Jupiter's counsel that it intended to request that the court reopen discovery for 90 days and asked if counsel had any objections to the proposed time frame. Jupiter's counsel had no objections to the proposed time frame and stated he would file a Notice of Unavailability with the court. On December 8, 2003, Jupiter's counsel filed a Notice of Unavailability reflecting that he is available 11 out of the first 90 days of 2004.

5. Accordingly, the SEC is requesting the Court set this matter for a scheduling conference via telephone to coordinate reasonable deadlines for conducting discovery, for filing dispositive motions, and for scheduling a hearing on the remaining issues.

WHEREFORE, for the foregoing reasons, the SEC requests that the Court grant its Motion.

Respectfully submitted,
For Plaintiff Securities and Exchange Commission:

S/Carolann Gemski

Carolann Gemski (DC Bar #438561)
One of the Attorneys for Plaintiff
U. S. Securities and Exchange Commission
175 W. Jackson Blvd., Suite 900
Chicago, Illinois 60604
(312) 353-7390

CERTIFICATE OF SERVICE

I, Carolann Gemski, hereby certify that on December 17, 2003, a copy of the foregoing Motion for Scheduling Conference was filed electronically. Notice of this filing will be sent electronically to Allan M. Lerner, counsel for Defendant Dean J. Jupiter by operation of the Court's electronic filing system. Parties and interested persons may access this filing through the Court's system.

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ORDER GRANTING SEC'S MOTION FOR SCHEDULING CONFERENCE

UPON CONSIDERATION of the SEC's *Motion for Scheduling Conference* and
Defendant Dean J. Jupiter's opposition thereto, it is this _____ day of
_____, 200____, by the United States District Court for the District of
Maryland, hereby:

ORDERED, that the SEC's Motion be and hereby is GRANTED; and it is further,
ORDERED, that counsel for the SEC and Defendant Dean J. Jupiter shall appear via
telephone for a scheduling conference on _____, 2004 at which time the
court will establish discovery deadlines, a dispositive motions deadline, and a date for a hearing
on any unresolved issues.

SO ORDERED.

Judge, United States District Court
for the District of Maryland